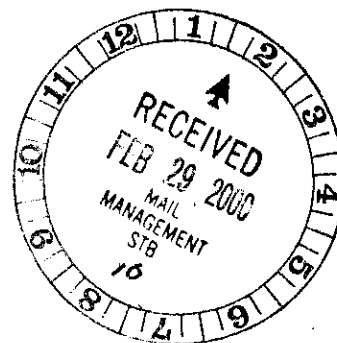


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BEFORE THE
SURFACE TRANSPORTATION BOARD



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PUBLIC VIEWS ON MAJOR RAIL CONSOLIDATIONS

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Statement of Duane A. Fischer, The Scoular Company
February 28, 2000

The Scoular Company is a privately owned agricultural-trading company headquartered in Omaha, Nebraska. We have been in operation for over 100 years, and do business throughout North America and in over 50 countries in the Far East, Europe and the Americas. We operate 23 grain handling facilities in the United States that originate 100 million bushels of grain annually. We trade an additional 600 million bushels of grain, and over two million tons of feed and food ingredients that include a diverse product line with commodities such as fishmeal and cotton. We pay freight on more than a dozen different

North American railroads totaling nearly \$100 million per year, as well as \$35 million in truck freight, and \$4 million in containers and barges. We have a very strategic vantage point to make both short-term and long-term observations of transportation issues.

My general feeling is that most future mergers will be financially driven, not service or customer driven. Is that good or bad? It depends. If it is the only way that the carrier can grow earnings per share and make themselves viable to the investment community, it may not be good -- but it may be necessary. Shippers need financially successful transportation vendors who can reinvest profits in their infrastructure to keep our country competitive in the global economy. If they cannot do it any other way, then this may be the only acceptable alternative. However, before approving any more mergers, I would suggest that a bold new approach be taken -- a look at history. The Staggers Act of 1980 freed the railroads to make rates, terms, and competitive actions to grow their business. The strong got stronger. Shippers now enjoy rates on many commodities that are lower than they were twenty years ago,

and on almost all commodities, they are lower in inflation adjusted terms. This tells us that competition among a strong few without needless regulatory restrictions is a good outcome for shippers. However, the good outcomes from this are maturing and the future benefits will be modest. Even post-Staggers, the railroads are among the most regulated and government-interfered industry in the country. They must deal with the Federal Railway Administration, the Surface Transportation Board, the Department of Transportation, and the Department of Labor, among others. They are still subject to the Federal Employees Liability Act, and railroad retirement laws that are unique to only their industry. I read last week that a labor dispute on the Union Pacific at a facility in Cheyenne, Wyoming, fell under the Railway Labor Act of 1926. Does anybody recognize that these regulations and laws waste needless revenue for both shippers and carriers?

This week's hearing has seen an endless stream of politicians and bureaucrats with opinions on the merger proposal of the Canadian National and Burlington Northern. I would suggest that many of them

are the problem, not the solution. Let's form a high-level, empowered group of interested parties to review the entire universe of laws and regulations that affect railroads and shippers, and see if the next "Staggers" type of impact can be made on railroad cost structures. If they can't grow the bottom line that way, they will either have to grow the top line with higher rates or continue to merge to save expenses. Neither of those solutions are the best options for the shipping community.

As I prepare these remarks, I notice that the stock prices of the Union Pacific, Burlington Northern, CSX, and Norfolk Southern are down 45%, 48%, 60% and 62% respectively from their 52 week highs. On average, they are down 54%. This industry is viewed as mature, capital intensive and unable to exert pricing power. I note that prior to the Burlington Northern/Atchison, Topeka & Santa Fe merger, the two carriers combined were spending about \$600 million per year on capital improvements. Since the merger, the Burlington Northern/Santa Fe has been spending \$2 billion per year. This has been great for shippers.

Burlington Northern stockholders have not enjoyed it nearly as much. They are planning to spend 60% less next year. They are going to use a lot of their money to buy back their own stock. Where is the benefit in that capital spending for the shipper?

In conclusion, I would like to thank Chairwoman Morgan for the opportunity to share my views. I recognize that the thoughts I have expressed may not seem to bear directly on the subject at hand, the proposed Burlington Northern/Canadian National merger. I would suggest that a thoughtful, interested party might see otherwise. We in the shipping community need a healthy, competitive league of transportation vendors who have access to sufficient amounts of capital to stay modern and efficient, while still able to reward shareholders with competitive returns. In addition, we like them to do all of that while leaving our rates at levels first seen in the 70's , yet provide a higher level of service. We must either let them merge their way into saving money, or help them wring needless costs from their structure, that is the

result of antiquated laws and regulations. I think the latter approach is much more likely to have a positive impact on the shipping public.

Thank you for your consideration.